

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

THEODUS JORDAN

Plaintiff,

v.

BOSTON PUBLIC SCHOOLS

Defendant

Civil Action No. 04-10688 NMG

**DEFENDANT, BOSTON PUBLIC SCHOOLS' OPPOSITION TO PLAINTIFF'S
MOTION FOR DELAY OF PRODUCTION FOR ANOTHER 40 DAYS AND
MOTION TO COMPEL**

Defendant, Boston Public Schools, moves this Honorable Court for an order compelling the Plaintiff to respond to Defendant's First Request for Production of Documents within seven (7) days of allowance of this Motion pursuant to Federal Rule of Civil Procedure 34. As grounds for this motion, the Defendant states the following:

1. Defendant served its First Request for Production of Documents upon Plaintiff on May 9, 2006 U. S. Mail, Certified Mail, Return Receipt Requested, (see copy of Defendant's First Request for Production of Documents attached hereto as Exhibit A and incorporated herein);
2. Service of such request was made in a timely manner and within the time for discovery permitted by the Court's tracking order which sets a deadline for the completion of discovery as July 21, 2006. This deadline was extended by request of the Plaintiff for thirty days and subsequently extended by joint request to January 31, 2007; and

3. Defendant's First Request for Production of Documents are limited, and are not voluminous or unduly burdensome; (Exhibit A);
4. The Plaintiff has failed to object or to otherwise respond to the Defendant's document production requests.
5. Counsel for Defendant sent a certified, return receipt requested letter reminding Plaintiff to produce discovery on August 1, 2006, which Plaintiff signed for on August 22, 2006 (Please see attached Exhibit B.)
6. The Plaintiff has stated in his Response to Defendant's Request for Interrogatories received by Defendant on October 31, 2006 that "Plaintiff will produce all documents upon the strict order of this court for there are many and these are not easily portable." (Please see attached Exhibit C.)
7. On November 27, 2006 Counsel for Defendant sent a certified, return receipt requested letter re-scheduling Plaintiff's Deposition and summarizing a conversation with Plaintiff and reiterating the need for Plaintiff to provide documents. (Please see Exhibit D).
8. Plaintiff had represented to Defendant's counsel that he would be represented by an attorney by the end of Decemeber. To date, no new counsel has entered an appearance in this matter. Discovery is set to close by order of this Court on January 31, 2007.
9. In compliance with Local Rule 37.1 counsel for Defendant spoke to Plaintiff via telephone on January 24, 2007 again requesting the documents owed to Defendant and Plaintiff stated that he would produce them by the discovery deadline of January 31, 2007. Counsel for Defendant stated that if no documents were received by that point, she would be obligated to move this Court to compel the documents. This was memorialized via letter. (See attached Exhibit E).

10. Receipt of Plaintiff's responses to Defendant's discovery requests is necessary for the Defendant to properly prepare its case. As the Plaintiff has not asserted any specific objections to the document requests, and on the contrary, agreed to produce any documents in his possession by January 31, 2007, but has not, Defendant cannot make a proper statement as to what the contested issues are, if any.

11. A further forty (40) day delay for production of documents will unnecessarily delay proceedings where Plaintiff has already been granted one extension, plus the joint extension to allow for his securing of an attorney and for production of documents.

WHEREFORE, the Defendant, Boston Public Schools, respectfully requests that this Honorable Court compel the Plaintiff to respond to Defendant's First Request for Production of Documents within seven (7) days of allowance of this Motion and deny Plaintiff's Motion for Delay and grant such further relief deemed just and proper. Defendant waives a hearing on this Motion and requests that the Court rule based on the submissions.

Dated: February 9, 2007

Respectfully submitted,
Boston Public Schools
By Its Attorney,
William Sinnott, Corporation Counsel

By:
/s/ Andrea Alves Thomas
Andrea Alves Thomas, BBO #660050
Assistant Corporation Counsel
Boston Public Schools
Office of Legal Advisor
26 Court Street, 7th Floor
Boston, MA 02108
(617) 635-9320

CERTIFICATION OF CONFERENCE

Pursuant to Local Rules of the United States District Court for the District of Massachusetts 37.1 I, Andrea Alves Thomas, have conferenced via telephone on January 24, 2007 with the Plaintiff, Theodus Jordan, to discuss his response to Boston Public Schools First Request for the Production of Documents, and file this motion as a last recourse having reached no agreement.

/s/ Andrea Alves Thomas

CERTIFICATE OF SERVICE

I, Andrea Alves Thomas, hereby certify that a true copy of the above document was served by Certified Mail, Return Receipt Requested, this 9th of January upon Plaintiff at:

Theodus Jordan
P.O. Box 840
Jamaica Plain, MA 02130

/s/ Andrea Alves Thomas
Andrea Alves Thomas